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C O N F I D E N T I A L STATE 134713

E.O. 11652: GDS

TAGS: SHUM

SUBJECT: HUMAN RIGHTS: COUNTRY EVALUATION PLAN FOR
AFGHANISTAN

REF: STATE 133681

FOLLOWING IS INITIAL DRAFT CEP FOR AFGHANISTAN. EMBASSY
COMMENTS AND SUGGESTIONS WOULD BE APPRECIATED ASAP:

QUOTE: AFGHANISTAN HUMAN RIGHTS ACTION PLAN JUNE-
DECEMBER 1977.

A. CONDITION OF HUMAN RIGHTS IN AFGHANISTAN.

-- 1. RESPECT FOR THE INTEGRITY OF THE PERSON: THE NEW
AFGHAN CONSTITUTION CONTAINS SPECIFIC PROVISIONS PROTECTING
INDIVIDUALS FROM TORTURE, CRUEL, INHUMAN OR DEGRADING
PUNISHMENT, ARBITRARY ARREST OR IMPRISONMENT, DENIAL OF
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FAIR PUBLIC TRIAL, AND INVASION OF THE HOME. THE HISTORIC
RECORDS OF RESPECT FOR THESE RIGHTS IN AFGHANISTAN IS
SPOTTY AND IT IS TOO SOON TO HAVE A FIRM INDICATION OF HOW
THEY WILL BE OBSERVED UNDER THE CONSTITUTIONAL REGIME.

-- 2. RESPECT FOR CIVIL AND POLITICAL LIBERTIES: THE
RIGHT OF FREEDOM OF THOUGHT,RELIGION, AND ASSEMBLY ARE

CIRCUMSCRIBED IN AFGHANISTAN. THE PRESS IS CONTROLLED; CONVERSION TO ISLAM FOR AFGHAN CITIZENS DESIRED, AND FREE ASSEMBLY GENERALLY PERMITTED ONLY IN SUPPORT OF THE GOVERNMENT.

-- MOVEMENT WITHIN THE COUNTRY IS CONTROLLED, AS IS FOREIGN TRAVEL AND EMIGRATION. PERSONS BORN AS AFGHAN CITIZENS WHO HAVE BEEN NATIONALIZED IN OTHER COUNTRIES MAY FACE LEGAL SANCTIONS UPON RETURN TO AFGHANISTAN.

-- THE NEW CONSTITUTION PROVIDES FOR A POLITICAL SYSTEM WITH A SINGLE-PARTY AND SINGLE-CHAMBER LEGISLATURE. THE PARTY HAS YET TO BE FORMED AND PARLIAMENT WILL NOT SIT FOR MANY MONTHS. IT IS TOO SOON TO DETERMINE TO WHAT EXTENT THE PROCESS OF CHOOSING EITHER WILL BE DEMOCRATIC.

-- 3. RECENT TRENDS IN GOVERNMENTAL POLICIES RELATING TO THE FULFILLMENT OF BASIC NEEDS FOR FOOD, SHELTER, HEALTH CARE AND EDUCATION. THE AFGHAN GOVERNMENT IS COMMITTED TO A STRONG EFFORT GEARED TO BETTERING THE LOT OF THE POOREST SEGMENT OF THE AFGHAN SOCIETY. FAR MORE THAN ITS PREDECESSORS, THE REPUBLICAN GOVERNMENT IS COMMITTED TO ECONOMIC AND SOCIAL DEVELOPMENT. PROGRAMS ARE UNDERWAY TO INCREASE FOOD PRODUCTION, PROVIDE SHELTER, IMPROVE AND EXTEND HEALTH CARE, AND WIDEN THE EDUCATIONAL BASE. SIGNIFICANT PORTIONS OF THE FUNDS DEVOTED TO THESE PROGRAMS ARE PROGRAMED FOR THE POOR MAJORITY. THE GOVERNMENT OF AFGHANISTAN SUPPORTS HUMAN RIGHTS. HOWEVER, THERE ARE PRACTICAL OBSTACLES TO GUARANTEEING THESE IN A NATION AS

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UNDER-DEVELOPED AS AFGHANISTAN AND CONFRONTING SUCH GRINDING POVERTY.

-- ADDITIONALLY, AFGHANISTAN HAS BEEN UNIFIED ONLY THROUGH STRONG AUTHORITARIAN LEADERSHIP, WHICH HISTORICALLY HAS HAD TO USE FORCE TO MAINTAIN CONTROL AND PROMOTE NATIONAL COHESIVENESS. THE COUNTRY IS SHARPLY DIVIDED, NOT JUST IN A GEOGRAPHICAL SENSE BUT, MORE IMPORTANTLY, ALONG ETHNIC LINES. THE RULING GROUP, THE PUSHTUNS MAKE UP ONLY APPROXIMATELY HALF OF THE POPULATION, WITH THE REMAINDER DIVIDED AMONG TAJIKS, UZBEKS, HAZARAS, AIMAQS, TURKMEN, AND OTHERS. THE PUSHTUNS, THEMSELVES, ARE DIVIDED INTO FREQUENTLY CONFLICTING TRIBAL GROUPS.

-- 4. FOLLOWING THE 1973 COUP, A LARGE NUMBER OF INDIVIDUALS WERE IN PRISON WITHOUT TRIAL. A NUMBER WERE TORTURED, AND SOME HAVE QUOTE DISAPPEARED UNQUOTE. AS THE REGIME HAS GAINED CONTROL AND CONFIDENCE, THOUGH, THESE MEASURES HAVE BEEN RELAXED. THE VAST MAJORITY OF THOSE

ARRESTED AT THE TIME OF THE COUP HAVE BEEN RELEASED;

MARTIAL LAW HAS BEEN ABOLISHED, AND A NEW CABINET INSTALLED. A NEW CONSTITUTION WAS INTRODUCED AND RATIFIED IN FEBRUARY, 1977 BY THE QUOTE GRAND CONSTITUENT ASSEMBLY UNQUOTE (LOYA JIRGAH). A COMPREHENSIVE PENAL CODE CONTAINING SPECIFIC GUARANTEES OF HUMAN RIGHTS HAS BEEN PREPARED TO REPLACE THE EARLIER MIXTURE OF ISLAMIC JURISPRUDENCE, CUSTOM, AND STATUTORY LAW. ELECTIONS TO A NEW NATIONAL ASSEMBLY ARE SCHEDULED TO BE HELD IN DECEMBER, 1979.

-- 5. SO FAR AS WE ARE AWARE, NO INDEPENDENT OUTSIDE BODY HAS SOUGHT TO INVESTIGATE ALLEGED HUMAN RIGHTS VIOLATIONS IN AFGHANISTAN.

B. ANALYSIS AND RECOMMENDATIONS.
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-- 1. A NEW AFGHAN AMBASSADOR HAS BEEN NAMED TO WASHINGTON AND IS EXPECTED TO PRESENT HIS CREDENTIALS PRIOR TO JULY 17, 1977. DURING HIS INITIAL CONVERSATIONS WITH THE PRESIDENT, THE SECRETARY, AND OTHER LEADING U.S. GOVERNMENT OFFICIALS, AFGHANISTAN SHOULD BE PRAISED FOR RETURNING TO CONSTITUTIONAL RULE AND WE SHOULD EMPHASIZE OUR HOPE THAT THE NEW CONSTITUTION WILL BE FULLY IMPLEMENTED AS SOON AS POSSIBLE.

-- EMBASSY OFFICIALS IN KABUL SHOULD BE INSTRUCTED TO EMPHASIZE TO THE AFGHANS THIS ADMINISTRATION'S CONCERN WITH HUMAN RIGHTS ISSUES. THIS SHOULD BE DONE IN A POSITIVE SENSE, AGAIN URGING THE AFGHANS TO FULLY IMPLEMENT THEIR NEWLY ADOPTED CONSTITUTION AND, PARTICULARLY, THOSE PROVISIONS GUARANTEEING HUMAN RIGHTS.

-- THE GREATEST IMPEDIMENT TO HUMAN RIGHTS IN AFGHANISTAN IS THE NATION'S GRINDING POVERTY. THE AFGHAN GOVERNMENT IS MAKING AN EFFORT TO FOSTER ECONOMIC DEVELOPMENT, WHICH IT BELIEVES WILL LEAD TO A MORE MODERN AND EQUITABLE STATE. THE U.S. IS ASSISTING THIS PROCESS, CONTRIBUTING APPROXIMATELY 20 MILLION DOLLARS IN ECONOMIC AID YEARLY. AS WE PROCEED TO IMPLEMENT AID AGREEMENTS WITH THE AFGHAN GOVERNMENT, WE SHOULD MAKE IT CLEAR THAT WE EXPECT TO SEE CONTINUED PROGRESS IN THE HUMAN RIGHTS FIELD.

-- THE U.S. HAS BEEN ASSISTING IN THE MODERNIZATION OF THE AFGHAN LEGAL SYSTEM THROUGH TRAINING AFGHANS IN THIS COUNTRY AND THROUGH THE WORK OF AMERICAN SPECIALISTS IN KABUL. THIS PROGRAM CURRENTLY IS BEING PHASED OUT. IN

VIEW OF INCREASED CONCERN OVER HUMAN RIGHTS, AND THE CENTRAL ROLE THE LEGAL PROFESSION CAN PLAY IN PROTECTING THESE, WE SHOULD EXPLORE ALTERNATIVE MEANS OF ASSISTING

THE AFGHAN JURIDICAL SYSTEM AND, PERHAPS, REEXAMINE WHETHER
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THE EXISTING PROGRAM SHOULD BE TERMINATED.

-- 2. TO THE EXTENT WE ARE ABLE TO ENCOURAGE THE AFGHAN GOVERNMENT TO CONTINUE ALONG ITS PRESENT COURSE IN A POSITIVE MANNER, THEY ARE LIKELY TO PROVE RECEPTIVE. THE AFGHAN LEADERSHIP HAS BEEN TO A CONSIDERABLE EXTENT EDUCATED ABROAD (THE CABINET HAS PERHAPS THE HIGHEST RATIOS OF PHD'S OF ANY CABINET IN THE WORLD) AND ACTIVELY DESIRES TO DEMONSTRATE ITS BONAFIDES AND A QUOTE MODERN UNQUOTE GOVERNMENT TO THE OUTSIDE WORLD. IF, HOWEVER, THE PROUD, INDEPENDENT AND SOMEWHAT XENOPHOBIC AFGHANS PERCEIVE THIS ENCOURAGEMENT TO BE MEDDLING IN THEIR INTERNAL AFFAIRS, THEY ARE LIKELY TO RESIST.

-- 3. TO THE AFGHAN LEADERS, THERE WILL BE A FINE LINE BETWEEN ENCOURAGEMENT AND OUTSIDE MEDDLING, THUS THE DEPARTMENT SHOULD BE GUIDED ON THIS BY EMBASSY KABUL'S RECOMMENDATIONS. IT SHOULD BE POSSIBLE, HOWEVER, TO URGE THE AFGHANS TO FULFILL THEIR SELF-PROCLAIMED GOALS -- WHICH WILL FURTHER HUMAN RIGHTS GUARANTEES IN AFGHANISTAN -- WITHOUT GIVING UNDUE OFFENSE. END QUOTE.

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